



Dan Skopec  
Acting Secretary

# California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control  
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment  
State Water Resources Control Board • Regional Water Quality Control Boards



Arnold Schwarzenegger  
Governor

Certified Mail: 70000600002711549130

April 19, 2006

Mr. Curtis Batson, Director  
San Luis Obispo County Environmental Health  
P.O. Box 1489  
San Luis Obispo, California 93406

Dear Mr. Batson:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, State Water Resources Control Board (SWRCB), and the Department of Toxic Substances Control conducted a program evaluation of the San Luis Obispo County Environmental Health Certified Unified Program Agency (CUPA) on June 29<sup>th</sup> and 30<sup>th</sup>, 2005. The evaluation was comprised of an in-office program review and field inspections. Following the evaluation, the state evaluators completed an Evaluation Summary of Findings, which was reviewed with your agency's program management. The evaluation summary of findings includes identified deficiencies, corrective action to be taken and timeframes for correction of identified deficiencies. Two additional evaluation documents completed during the evaluation are the Program Observations and Recommendations and the Examples of Outstanding Program Implementation.

I have reviewed the enclosed copy of the Summary of Findings and I find that San Luis Obispo County Environmental Health's program performance is satisfactory with improvements needed. To update our files on your progress toward correcting the identified deficiencies, please provide a status report, using the attached format, within 30 days from receipt of this letter.

Cal/EPA also noted during this evaluation that San Luis Obispo County Environmental Health CUPA has worked to bring about a number of local program innovations, including purchasing and utilizing computer equipment in the field. This equipment will greatly reduce the inspectors' time filing and electronically inputting inspection reports, and thus, greatly increase the amount of time the inspectors are in the field inspecting and ensuring businesses are complying with the Unified Program. Additionally, the CUPA inputs Business Plan owner/operator information, inventories, and site maps into a Cameo computer database. The information in this database is available 24/7 for emergency responders to utilize whenever responding to a hazardous material released into the workplace or the environment.

Mr. Curtis Batson

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at [jbohon@calepa.ca.gov](mailto:jbohon@calepa.ca.gov).

Sincerely,



Don Johnson

Assistant Secretary

California Environmental Protection Agency

Enclosures

cc: Mr. Jeff Poel  
San Luis Obispo County Environmental Health  
P.O. Box 1489  
San Luis Obispo, California 93406

Mr. John Paine (Sent Via Email)  
California Environmental Protection Agency  
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Ms. Loretta Sylve (Sent Via Email)  
California Environmental Protection Agency  
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Mr. Mark Pear (Sent Via Email)  
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Mr. Brian Abeel (Sent Via Email)  
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Rancho Cordova, California 95741-9047

Mr. Terry Snyder  
State Water Resources Control Board  
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Sacramento, California 94244-2102

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Ms. Liz Haven (Sent Via Email)  
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Mr. Charles McLaughlin (Sent Via Email)  
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P.O. Box 419047  
Rancho Cordova, California 95741-9047

## **Deficiencies and Corrective Actions**

1. Deficiency: Brief description of deficiency

CUPA Corrective Action: CUPA responds here

2. Deficiency: Brief description of deficiency

CUPA Corrective Action: CUPA responds here

3. Deficiency: Brief description of deficiency

CUPA Corrective Action: CUPA responds here

4. Deficiency: Brief description of deficiency

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8. Deficiency: Brief description of deficiency

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9. Deficiency: Brief description of deficiency

CUPA Corrective Action: CUPA responds here



STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY



Alan C. Lloyd, Ph.D.  
Agency Secretary

**CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION**  
**SUMMARY OF FINDINGS**

Arnold  
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Governor

**CUPA: San Luis Obispo County Environmental Health**

**Evaluation Date: June 29-30, 2005**

**EVALUATION TEAM**

**Cal/EPA: John Paine**  
**OES: Brian Abeel**  
**DTSC: Mark Pear**  
**SWRCB: Terry Snyder**

This Summary of Findings includes the deficiencies identified during the evaluation, observations and recommendations for program improvement, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to John Paine at (916) 327-5092.

	<b><u>Deficiency</u></b>	<b><u>Preliminary Corrective Action &amp; Timeframe</u></b>
1	<p>The CUPA's 2001 Area Plan was updated in February 2003. The update contained no content changes, only format and minor editing changes/corrections. The new edition does not contain provisions for access to state approved and permitted disposal facilities and emergency response contractors.</p>	<p>By December 1, 2005, the CUPA will amend and update the area plan then forward the updated pages to the evaluation team leader.</p>
2	<p>The CUPA is not ensuring that all businesses annually submit their hazardous materials inventory or a certification statement on or before March 1 to the CUPA.</p> <p>The CUPA tried mailing and requesting all businesses to submit updated inventories or a no change certification. According to the CUPA, the administrative time spent on processing (mailing, receiving, confirming, filing) the paper work for this task is costly and occupies the inspectors' time in the office, rather than in the field inspecting businesses and ensuring the public health and protecting the environment. As a result of this and since the CUPA is already annually inspecting underground storage tanks (USTs), the CUPA chose to combine UST inspections with other CUPA program inspections, such as the Business Plan Program.</p> <p>At the time of the inspections, CUPA inspectors review the business plan with the business owner/operator to ensure:</p>	<p>By May 1, 2006, the CUPA will either develop a mechanism to ensure that each business annually submits its hazardous materials inventory or a certification statement on or before March 1 or inspect each business annually, ensuring their inventories are current, documentation is kept in the hard or electronic files, and each business certifies that the business plan inventories are current or have been updated appropriately.</p>

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

	<ul style="list-style-type: none"> <li>• The information contained in the hazardous materials inventory most recently submitted to the CUPA is complete, accurate, and up to date.</li> <li>• There has been no change in the quantity of hazardous reported in the most recently submitted inventory.</li> <li>• No hazardous materials subject to inventory requirements are being handled that are not listed on the most recently submitted inventory</li> </ul> <p>Any necessary changes are made to the business plan at the businesses or the businesses submit an updated inventory to the CUPA. If businesses fail to submit the required paperwork, the CUPA initiates the appropriate enforcement action. Upon return to the office, the file is updated to reflect the changes made at the businesses.</p> <p>The CUPA is only inspecting approximately 1/2 of the businesses required to comply with the business plan program. Therefore, the CUPA is ensuring only approximately 1/2 of the businesses inventories are annually updated or current.</p>	
3	<p>The CUPA failed, in certain instances, to take enforcement in a manner consistent with state law. The Annual Summary Reports indicate that 76 Class 1 violations were identified in FY 03/04. However, the CUPA did not initiate formal enforcement or make referrals for each of these violations, even though they initiated approximately two dozens administrative enforcement actions. The CUPA does not have enough staff resources to take enforcement or make referrals for each of these violations. Examples of specific cases are:</p> <p>1) During an April 30, 2003 inspection of Pacific Metal &amp; Manufacturing, the CUPA cited for not having an EPA ID number, for not conducting a hazardous waste determination, for transporting and/or disposing of hazardous waste at a facility with out a permit or authorization from DTSC, for shipping hazardous waste without a manifest, for not keeping manifests on site for 3 years, and for illegally storing hazardous wastes past 180 days. In addition, there were numerous minor violations. The facility was later re-inspected on July 02, 2004 and was found to have returned to compliance. No administrative enforcement order had been issued.</p> <p>2) During an August 13, 2004 complaint response to a major fire at Osgood Farms, the CUPA cited the facility for not having a Hazardous Material Businesses Plan, Site Map, Contingency Plan, Training Plan, failure to label all drums and tanks, and for not providing proper secondary containment. No Administrative Enforcement Order had been issued.</p>	<p>The CUPA will initiate the appropriate formal enforcement in the future for all Class 1 violations. The CUPA will also consider enforcement referrals to the State or Federal agencies.</p>
	<p>The CUPA has not adequately documented that all facilities issued a notice to comply, citing minor violations, have returned</p>	<p>For all subsequent inspections, the CUPA manager and inspectors will ensure that all</p>

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

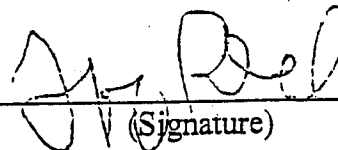
4	<p>to compliance within 30 days of notification. For the Hazardous Waste Generator oversight inspection conducted on 04/26/05 at the JIT Manufacturing the following violation was cited: "Properly recycle the 55 gallon drums (2) that previously contained petroleum products. Properly dispose of the 27 gallons of oil/water in one of the drums. Remove the oil residue from the asphalt."</p> <p>No date of correction was noted either in a re-inspection report or in a Return to Compliance Certificate for this inspection or the previous one conducted on 04/27/04.</p> <p>For the 01/19/05 inspection of the City of Moro Bay Harbor Department the following violations were cited:</p> <ol style="list-style-type: none"> <li>1) Pump out oily-water from secondary containment or waste oil. This containment is close to over flowing. Properly dispose of oily water-keep disposal records on site.</li> <li>2) Properly drain oil from used oil filters then crush filters. Provide a container, that is, properly labeled for used oil filters. Verify that, CRI, is recycling these, ensure that you have documentation for used oil filters. Used oil filters are on manifest.</li> <li>3) Ensure all hazardous waste containers are properly labeled including plastic tanks in shed.</li> <li>4) Form provided to document weekly inspection of hazardous waste storage area.</li> <li>5) Spillage observed in filter crush area. The effort to prevent spillage.</li> </ol> <p>No date of correction was noted in the facility file.</p>	<p>minor violations cited in an inspection report and facility file and database will contain evidence or documentation that the minor violations have been corrected.</p>
5	<p>The CUPA is not ensuring that businesses are updating or submitting annual Hazardous Waste/Tiered Permitting Permit by Rule notifications. Additionally, the CUPA is not initiating appropriate enforcement actions against those businesses that fail to submit such information. The CUPA has distributed notification letters to their 7 PBR facilities but did not follow-up with all facilities.</p>	<p>By January 31, 2006, the CUPA will continue to distribute these letters annually and ensure submissions and non-submission are tracked and handled appropriately.</p>
6	<p>The plot plans contained in the UST facility files reviewed did not contain all the required elements. The plot plans are missing the location of where the monitoring is performed.</p>	<p>During the next 12 months (July 1 – June 30), the CUPA will update the plot plans as part of their annual inspection.</p>
7	<p>The CUPA is not inspecting all UST facilities annually. During the past fiscal year, /FY 04/05, the CUPA inspected approximately 85% of the UST facilities. However, during the previous three fiscal years, their inspection rate was approximately 50%.</p>	<p>The CUPA is also moving towards an automated inspection report and tracking process, using PC Tablets, which will improve inspection efficiency and accuracy of inspection data. The CUPA is planning to hire additional staff on a limited-term basis, using existing funds from their enforcement account. Future funding of this position will be re-evaluated in a couple of years.</p>

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

8	<p>The CUPA has not completed their annual Self-Audit Reports for the past three fiscal years, including an evaluation of their PA. Partial reports were available during the evaluation. The CUPA has indicated that reporting activities have been hampered by the time necessary to correct data system problems, process enforcement and maintain inspection frequency goals.</p>	<p>By September 30, 2005, and all future years, the CUPA will complete a Self-Audit report, including a summary of their findings from their evaluation of their PA.</p>
9	<p>The Annual Summary Reports submitted by the CUPA, for the past three fiscal years has been incomplete, under reporting the CUPA's activities for several data elements. The primary reason for the incomplete or inaccurate reports has been due to data system related issues. For the past few years, the CUPA Manager, Jeff Poel, has work with the system supplier to improve the completeness and accuracy of the data reported on the reports. During the evaluation, the CUPA provided updated reports that reflect the CUPA's activities accurately. Additionally, the CUPA inspectors have not inputted all the data related to their inspections or significantly behind in inputting the information. In many cases, they are several months behind or simply did not complete the data entry for their inspections.</p>	<p>The CUPA will continue to continuously improve their data system, including the use of technology and field equipment to improve efficiency and reduce labor-intensive data entry. The CUPA manager will re-enforce the need for staff to enter inspection data into the data system with in an appropriate time frame. The CUPA manager will also use the reporting function to track and monitor the completeness and accuracy of inspection staff data entry.</p>

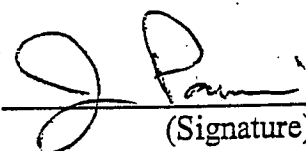
CUPA Representative

Jeff Poel  
(Print Name)

  
(Signature)

Evaluation Team Leader

John Paine  
(Print Name)

  
(Signature)



Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

**PROGRAM OBSERVATIONS AND RECOMMENDATIONS**

1. **Observation:** The inspection reports reviewed lacked any detailed narrative for the facilities inspected.

**Recommendation:** Develop the narrative portion of the inspection report so that a reviewer of the report may gain an insight into the type of historical operation occurring out at the site.

2. **Observation:** In addition, there is a difference of approximately 300 facilities between what the CUPA has reported in its latest inspection summary report for Fiscal Year 2003-2004, which is 716 facilities, and the total number of businesses manifesting off hazardous waste with active EPA ID numbers listed in the Department's Hazardous Waste Tracking System, which is 1016 facilities

**Recommendation:** Please review the print out provided concerning the number of active generators identified in the Department's Hazardous Waste Tracking System.

3. **Observation:** The return to compliance times for facilities cited with minor violation is exceeding 30 days and in some cases approaching a year. For the inspection conducted on 09/03/03 at Paso Robles Auto Wrecking located the following violations were cited:
- 1) Hazardous wastes were not transported and/or disposed to a facility with an EPA ID Number and permitting authorization from DTSC;
  - 2) Hazardous wastes were not shipped with manifest;
  - 3) Hazardous wastes were not accumulated on site as follows: 180 days if waste generate per month is less than 100kg;
  - 4) Used oil was not managed as hazardous waste until recycled (includes proper labeling, storage, etc);
  - 5) Used oil filters for recycling were not managed properly (drained of free flowing liquid, stored in closed rainproof container, labeled "drained used oil filters," and transferred for metal reclamation.); and,
  - 6) The facility was later re-inspected on June 15, 2004 and found to be in compliance..

**Recommendation:** Please continue the practice of sending by certified mail a reminder that minor violations are to be corrected with in 30 days of the date of inspection.

4. **Observation:** The agency has organized their files into separate sections in each file for the facility forms permits, inspection checklists, compliance information, and general correspondence. Specific documents with different dates were found in more than one section. This resulted in general file disorganization and documents not being filed in chronological order.

Certified Unified Program Agency (CUPA)  
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**Recommendation:** The SWRCB strongly encourages the agency to develop a file review checklist and/or organizational methodology to ensure that all required documents are located in the file.. This will help agency inspectors to verify that facility owners/operators are submitting the required information and that clerical staff knows what needs to be kept in the files. Also certain documents in files may be tabbed for quick reference like the Designation Operator form for example.

5. **Observation:** The operating permit does have a statement that the operating permit, including the monitoring plans are to be maintained on site as required. The SWRCB recommended that the language of response plans and plot plans be included in the permit during the last CUPA evaluation.

**Recommendation:** The SWRCB recommends that the CUPA amend their Unified Program Facility Permit to include the following permit condition language after "monitoring plans," "including response and plot plans." The inclusion of specific elements contained in monitoring plans will ensure greater compliance by the UST facility.

6. **Observation:** Based on a time/task analysis performed by the CUPA and the addition of a 30% increase of regulated business from the Agricultural Commissioner, the CUPA has identified a staffing resource shortfall of nearly 50%. The CUPA is addressing this issue in several ways, such as, a small increase in revenue from the new agricultural facilities (falls short approximately 10% in covering actual cost incurred for the new facilities), automation of routine functions (inspection reports and tracking technology to be implemented), and potential use of existing funds generated from enforcement actions taken in the past several years to hire additional staff on a limited term basis.

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

1. The CUPA is in the process of purchasing and utilizing computer equipment (i.e. Inspection Tablets) in the field from which they can download inspection results upon return to the office. This equipment will greatly reduce the inspectors' time filing and electronically inputting inspection reports, and thusly greatly increase the amount of time the inspectors are in the field inspecting and ensuring businesses are complying with the Unified Program.
2. The CUPA inputs Business Plan owner/operator information, inventories, and site maps into a Cameo computer database. The information in this database is available 24/7 for emergency responders to utilize whenever responding to a hazardous material released into the workplace or the environment.
3. The San Luis Obispo County Health Department has taken the following formal enforcement actions, it has:
  - 1) Settled an administrative order with William Everet and R Corner Store for \$35,000 in penalties and \$1,423 in agency costs. Respondent failed to install under-dispenser containment by December 31, 2003 and to have continuous monitoring of the entire UST system.
  - 2) Referred a criminal case to the County DA concerning Ed Escobar of Alpha Explosives, who inadvertently leaked ammonium nitrate and diesel fuel onto a street from his truck and trailer. The defendant pleaded no contest and paid a \$1,000 fine, costs, plus 10% interest for failure to report a chemical spill to the local administering agency and State OES plus.
  - 3) Settled an administrative order for \$300,000 with the Vettors for the clean up their contaminated property caused from their tenants steaming cleaning cars in their junkyard operation. The settlement required the Vettors, owners of the property, to evict their tenants, the Paynes, for maintaining unlawful hazardous waste conditions on the property and other unlawful, un-permitted activity. The settlement further required the Vettors to hire a qualified environmental contractor to remediate the site.
  - 4) Settled an administrative order with Eagle Energy, Inc. for \$39,000 in penalties and \$1008 in Agency costs. Respondent failed to install under-dispenser containment by December 31, 2003 and to have continuous monitoring of the entire UST system.
  - 5) Participated in a criminal enforcement case with the FBI against Charles Marciel for lying to a federal agent concerning the illegal discharge of ammonia gas and ammonia contaminated waste waters into a sewer connection located with in the city of Morro Bay from the facility's impaired refrigeration tank. The case was settled for \$5,000 plus three years probation.
  - 6) Referred a criminal enforcement case to the San Luis Obispo DA's Office against Longs Drug Store for one of its employees dumping hydrochloric acid into the city's dumpster. The DA has not filed the charges, but the agency has signed confessions.

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

- 7) Referred a criminal enforcement case to the San Luis Obispo DA's Office against the owner of Millstone Painting for leaving 40 gallons of waste oil behind at his business. The DA has not filed the charges, but the Agency has signed confessions.
- 8) Referred a criminal enforcement case to the San Luis Obispo DA's Office against Ellen Dayton for illegally dumping asbestos waste into the city's dumpster. The DA has not filed the charges yet.
- 9) Referred an administrative enforcement case to the ALJ against Phelan & Taylor for fraudulent submission of a Risk Management Plan. Anticipated penalty is approximately \$500,000.
4. The CUPA has made significant improvements in their implementation of the Unified Program since the Evaluation Team's last visit in December of 2001. Plans for additional improvement have been identified.
5. The CUPA data base program is capable of generating Notices of Violations that has improved their return to compliance percentages.
6. The CUPA documents permission to inspect before each inspection and records this in a space provided on their inspection checklist. This is essential for maintaining these documents as evidence in enforcement activities.